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REVISED LAWS
OF
SPANISH BAR DISTRICT,
IDAHO TERRITORY.

ADOPTED BY THE MINERS,

JANUARY 22, 1861.

CITY OF DENVER:
DAILY MOUNTAINEER BOOK AND JOB OFFICE,
1861.

EARLY MINING LAWS.

"Mining Distritt Laws" were enacted in convention by the Miners who first penetrated the mountains.

Original prints of these laws are very scarce and valuable.

*Presented to the Supreme Court
Library by F. L. Collom, Esq
Mar. 1, 1932.*

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REVISED LAWS OF SPANISH BAR DISTRICT.

CHAPTER I.

BOUNDARIES OF DISTRICT.—The boundaries of this District shall extend on the east, as far as the bridge crossing Clear Creek, near the head of Payn's Bar; on the south, to the summit of the dividing ridge, between Chicago Creek and Clear Creek; on the west, to the junction of Fall River with Clear Creek, and on the north, to the summit of the dividing ridge between Virginia Gulch and Clear Creek.

CHAPTER II.—OFFICERS.

SECTION 1.—The officers of this district shall be a President, a Judge of the Miner's Court, a Constable, a Collector, a Surveyor and a Recorder, who shall be ex-officio Secretary and Treasurer of the district, which officers shall be elected on the first Wednesday in June of each year, and who shall hold their offices for the term of one year from the date of their election, or until their successors are elected and qualified, unless they sooner die, remove from the district, resign or are removed for misconduct as hereinafter provided.

SECTION 2.—When any officer (except the President,) of this district shall be guilty of misconduct or malfeasance in office, it shall be the duty of the President, when an affidavit is made setting forth the specific charge, to issue a notice to such officer to appear before him for trial.

The President shall appoint a prosecutor, and the trial shall be conducted according to the laws for misdemeanor.

SECTION 3.—In case the President of the district is charged with misconduct in office, it shall be the duty of the Judge of the Miners' Court to perform the duties prescribed for the President in the foregoing section.

SECTION 4.—Each officer, before entering upon the discharge of the duties of his office, shall take an oath to support and faithfully execute all the laws of this District.

CHAPTER III.—DUTIES OF THE PRESIDENT.

SECTION 5.—It shall be the duty of the President to preside at all legally called meetings of the miners, and to call special meetings, by posting three notices, within the District, at least three days before the time of said meeting, when in his opinion there is a necessity for the same, or when a petition is presented, signed by a majority of the citizens of the District, specifying the particular object of the meeting, which object must be distinctly stated in the notice.

SECTION 2.—It shall be the duty of the President to preside in the Miner's Court, in any case where the Judge of said Court is in any manner interested in the result of the suit, or otherwise disqualified, unless objection is made by either of the parties, in which case it shall be his duty to appoint a Judge pro tem.

SECTION 3.—It shall be the duty of the President to sign all orders on the Treasurer for money legally appropriated; and all deeds for property belonging to the District, which the miners of the District authorize to be sold, and also to have the care of any property belonging to the District, except such as it is the special duty of some other officer to protect.

It shall also be his duty to institute suit against any person guilty of destroying or injuring any property belonging to the District, or committing any offence recognized in the law as a misdemeanor, nuisance or crime, and to appoint a suitable person to conduct the prosecution.

SECTION 4.—It shall be the duty of the President of the District to appoint an officer pro tem. to fill any vacancy that may occur.

DUTIES OF THE JUDGE.

SECTION 5.—The Judge of the Miners' Court shall execute a bond, with good and sufficient security, to be approved by the President, in the penal sum of one thousand dollars, for the faithful performance of his duties.

SECTION 6.—The Judge of the Miner's court shall perform the duties of the President in case of his absence or disability.

SECTION 7.—The Miner's Court shall have jurisdiction over all civil contracts, made in this or any other District in Idaho Territory. Provided, the parties were citizens of this District at the time of making the contract, or Provided, the defendant is a citizen of this District at the time of the institution of the suit.

BOND FOR COSTS.

SECTION 8.—It shall be the duty of the Judge, in all cases before entering suit, to require a bond with good and sufficient security for the payment of all costs, and for all damages in case of attachments being wrongfully sued out.

SECTION 9.—No suit shall be brought in the Miners' Court for indebtedness contracted in any other State or Territory, except by consent of all the parties interested, and no execution shall be collectable on a judgement rendered upon such indebtedness, except as hereinbefore provided.

DOCKET.

SECTION 10.—The Judge of the Miners' Court shall keep a docket, on which a correct record of all the proceedings of his Court shall be entered, and he shall file and safely keep all papers connected with suits before him. It shall also be his duty to make out and send to the "Court of Appeals," a complete transcript of the record, in any case where either party complies with the law authorizing an appeal, together with any special ruling made in the trial, Provided parties require it.

FINE FOR CONTEMPT.

SECTION 11.—It shall be the duty of the Court to levy a fine, not to exceed ten dollars for contempt of Court, said fine to be collectable by sale of property on execution and the proceeds of same to be paid into the district treasury.

SECTION 12.—It shall be the duty of the Judge to issue an attachment, when the plaintiff in any suit shall make oath that he believes the defendant

is about to abscond or dispose of his property to defraud his creditors.

SECTION 13.—The Judge of the Miners' Court shall have full Probate Jurisdiction within this District.

SECTION 14.—It shall be the duty of the Judge of the Miners' Court, to pay over to the Treasurer of the District all moneys coming into his hands for fines.

DUTIES OF THE RECORDER.

SECTION 15.—It shall be the duty of the Recorder safely to keep the records of the District and to record all papers upon the payment of his fees. To act as Secretary at all public meetings of the District, and by virtue of his office as Treasurer to keep all moneys of the District paid to him, subject to the draft of the President, also to keep all vouchers, so that at any time he may be able, when called upon, to exhibit the financial condition of the District.

SECTION 16.—The Recorder may appoint a deputy who shall be duly sworn, for whose special acts he shall be responsible.

SECTION 17.—It shall be the duty of the Recorder to execute a bond with good security for one thousand dollars, to be approved by the President and Judge of the District for the faithful performance of the duties of his office.

DUTIES OF THE CONSTABLE.

SECTION 18.—The Constable of the District shall execute a bond with good and sufficient security, to be approved by the President and Judge of the District, in the penal sum of one thousand dollars, for the faithful performance of the duties of his office.

SECTION 19.—It shall be the duty of the Constable to execute all papers issued by the proper officers and make due return entered thereon.

SECTION 20.—It shall be the duty of the Constable to return any notice or summons, on or before the time set therein for trial, and the manner of service shall be set forth in the Constables return thereto.

SECTION 21.—It shall be the duty of the Constable, when he attaches any property not capable of manual delivery, to file a list of the same with the Recorder immediately.

SECTION 22.—It shall be the duty of the Constable to receive and return in person all papers which it is his duty to serve and execute, and to be present at all sittings of the Court, and to perform such other duties as may be required of him by law.

SECTION 23.—It shall be the duty of the Constable to execute, or cause to be executed, all penalties for criminal offences.

DUTIES OF THE COLLECTOR.

SECTION 24.—The Collector shall give bonds in the penal sum of one thousand dollars for the faithful performance of his duty, to be approved by the President and Judge of the District.

SECTION 25.—It shall be the duty of the Collector to collect all legal taxes of the District and pay the same to the Treasurer.

SECTION 26.—It shall be the duty of the Collector, in all cases of the non-payment of taxes, to levy upon, advertise and sell, sufficient property of the

delinquent to pay said tax and costs. The levy notice and sale shall be governed by the law for sales under execution.

DUTIES OF THE SURVEYOR.

SECTION 27.—It shall be the duty of the Surveyor of the District to stake claims, when called upon by any person to do so, and to decide all questions of measurement between parties.

CHAPTER IV.—OFFICERS' FEES—JUDGE'S FEES.

SECTION 1.—The Judge of the Miner's Court shall be allowed fifty cents each for issuing all papers, except subpoenas for which he shall receive twenty-five cents, if containing one name, and fifty cents, if containing more than one name; for docket entry one dollar; for the trial of each cause, one dollar and fifty cents; for each continuance of a cause, one dollar, and for making out the transcript required by law, in case of an appeal to the "Appellate Court," one dollar.

RECORDER'S FEES.

SECTION 2.—The Recorder shall be entitled to fifty cents for recording each claim; fifty cents for a deed or any other instrument of not more than one hundred words, and at the rate of fifty cents for each additional one hundred words.

CONSTABLE'S FEES.

SECTION 3.—The Constable shall receive the sum of fifty cents each for serving all papers except subpoenas, for which he shall be entitled to twenty-five cents for each person subpoenaed, when on official business outside this District, he shall be allowed ten cents for each mile necessarily traveled. He shall also be allowed fifty cents each, for three notices in case of sale under execution, and one dollar for selling property; for empaneling a jury of six, one dollar; for summoning a jury for a regular term of Court, one dollar and fifty cents, and for waiting on the Court, he shall be allowed fifty cents for each cause tried.

COLLECTOR'S FEES.

SECTION 4.—The Collector shall receive eight per cent for all moneys he may collect and pay over to the Treasurer for the District, and he shall receive for advertising and selling property to pay taxes, the same fees the Constable receives for like services.

SURVEYOR'S FEES

SECTION 5.—The Surveyor shall receive three dollars per day for his services.

SECTION 6.—Jurors shall be allowed the sum of fifty cents per hour.

SECTION 7.—Witnesses shall be allowed one dollar for each attendance on a cause.

CHAPTER V.—LAWS FOR THE GOVERNMENT OF THE MINERS COURT.

SECTION 1.—Regular terms of the Miner's Court shall be held on the first and third thursday's of each month, and all writs to be made returnable at any term shall be served and returned on or before the monday preceding

said term, Provided, that nothing herein contained shall be so construed as to prevent trials for crime or misdemeanor at any time.

SECTION 2.—Any person, wishing to commence a civil action in the Miners' Court, shall file with the Judge of said Court a statement in writing setting forth his grounds of complaint, which shall contain all the allegations and facts necessary to constitute a cause of action, in plain and unequivocal language; and if the defendant does not appear and answer to said complaint, the Court shall require plaintiff to make oath to the correctness of his complaint, and that he knows of no legal offset, which the defendant may have. Upon complying with the foregoing requirements, the Judge may enter judgement for the amount claimed, together with all costs of suit.

SECTION 3.—Depositions may be used in evidence before the Miner's Court, Provided, the witness is sick and unable to attend at the place of trial, about to leave the country, or is out of the jurisdiction of the Court, Provided also, that the adverse party shall have notice of time and place, when and where such depositions will be taken, and have the right to cross question such witness. Notice, however, need not be given when the witness is not a resident of this Territory.

SECTION 4.—No cause shall be continued except by consent of both parties, or upon the affidavit of one of the parties or his attorney, setting forth good cause for continuance or for the absence of a material witness, in which case the party shall state on oath that he cannot safely proceed to trial without said witness and that he believes he can procure the testimony of said witness at some specified future time.

SECTION 5.—Garnishee process may issue as a part of the original writ to be served upon both the defendant and garnishee, or separately, or it may be issued after execution is returned unsatisfied; and, in either case, if the garnishee shall pay the defendant the amount of his indebtedness, after service of said notice and before the final judgement (if any is obtained,) is paid, he shall be liable to the plaintiff for such indebtedness.

SECTION 6.—The Jury for each term of the Court shall be drawn on the Saturday next proceeding each term in the following manner:—The Recorder shall furnish the names of thirty good and lawful men, who are citizens of this District, which names shall be placed in a box prepared for that purpose, from which the President shall draw nine names, who shall be summoned by the Constable to serve as jurors for the next succeeding term. But no person shall be compelled to serve on the jury for two successive terms.

SECTION 7.—New trials may be granted for good cause shown upon the same terms or by the rules of common law, Provided, the party applying for a new trial first pay the costs that have already accrued.

SECTION 8.—It shall be optional with the parties to any suit whether the same shall be tried by the Judge of the Miners' Court or by Jury.

SECTION 9.—When either party require a jury, it shall be the duty of the Constable to draw from the box the number required, and if for cause or peremptory challenges the regular panel is exhausted, it shall be his duty to summon others until the panel is full.

SECTION 10.—The regular number of jurymen to try civil causes, unless otherwise agreed upon by the parties, shall be three.

SECTION 11.—Each party shall have the right to three peremptory challenges, and as many as necessary for cause.

APPEALS.

SECTION 12.—Either party feeling aggrieved, may appeal from a decision of a jury of three, or the Judge, to a jury of six, or to the "Appellate Court," under the judicial system adopted on the 20th of November, 1860, Provided, That the party appealing shall give notice of his intention to appeal within twenty-four hours after the rendition of judgment, and provided he shall pay the costs already accrued, within five days after the judgment is rendered.

SECTION 13.—In cases where an appeal is taken as provided in the foregoing section, the case shall be cited to the next term of the Court to which the appeal is taken, provided at least five days elapse between the time of taking such appeal, and the next regular term of the Court to which the appeal is taken, unless otherwise agreed upon by the parties.

NOTICE.

SECTION 14.—Notice shall be considered served when read to the party or parties, or by leaving a copy of the same at the usual place of residence, when not to be found within the district.

SECTION 15.—Attachment shall be considered served by being read to the parties, together with a list of the property attached, and in case the party or parties cannot be found in the district, by leaving a copy of the same at his or their usual place of residence.

SECTION 16.—All executions issued from the Miners' Court shall be made returnable in twelve days from their date, and the Constable shall note, on each execution, the day and hour of receiving the same, and return the said execution within the twelve days, whether satisfied or not, with his official acts endorsed thereon.

SECTION 17.—Any property, sold under execution, shall be advertised, by posting notices in three conspicuous places, in the district, at least five days previous to the day of sale. Said notices must designate the day and hours of sale, together with a description of the property to be offered for sale. The Constable may adjourn the sale to some future day, within the time specified for the return of the execution, provided there are no bids or the bids are unreasonably low. Notice of such postponement shall be given during the hours of sale.

PUBLICATION.

SECTION 18.—When suit is instituted against any person who is absent from, or a non-resident of, this district, service may be had by posting notices or copies of the summons in three conspicuous places in the district, at least ten days previous to the day of trial. A copy of one of said notices shall be sworn to by the Constable who posted the same, stating when, how and where he served the same, which shall be filed with the papers in the case.

SECTION 19.—When judgment is rendered on publication, as provided in the foregoing section, the party defendant shall be entitled to a new hearing, in said cause, within sixty days after the rendition of judgment, by paying all costs, and showing, to the satisfaction of the Court, that injustice has been done him in the case. And in case the judgment is reversed, he shall be entitled to recover any real estate claims, or their value, which may have been sold under execution on such judgment.

EQUITY.

SECTION 20.—The Miners' Court shall have equity jurisdiction, and shall be governed by common law rules of equity: Provided, either party shall have the right to trial by jury; and, provided, either party shall show, to the satisfaction of the Court, that he cannot obtain justice under the rules of law.

EXEMPTION.

SECTION 21.—There shall be exempt from levy and sale on execution, the following articles, which are necessary for present use by the defendant: Mining tools, bedding, clothing, cooking utensils and necessary provisions for three months. And in case of a man with a family, residing in the district, a dwelling-house, not exceeding three hundred dollars in value, and the lot on which the same is situated, together with such articles of household furniture as are strictly necessary: Provided, That nothing in the foregoing section shall apply to judgment recovered for wages or labor performed prior to this date.

REDEMPTION.

SECTION 22.—The defendant in any cause on which suit is not already entered, shall have the right of redemption on any claim sold on execution, before the first day of June, eighteen hundred and sixty-one: Provided, That such defendant shall, on or before the first day of June, eighteen hundred and sixty-one, pay to the Court, for the benefit of the purchaser, the amount of the purchase money, together with interest at the rate of five per cent per month.

CITIZENSHIP.

SECTION 23.—Any person owning a claim, and working or living in this district, shall be entitled to vote, and to all the rights of citizenship. But, any person absenting himself from the district for twelve consecutive months, shall forfeit all claims held by pre-emption or purchase, unless represented by an agent, and said claims shall be liable to be pre-empted by any other person, according to law.

CHAPTER VI.—CRIMINAL LAWS.

SECTION 1.—Any person guilty of wilful murder, upon conviction thereof, shall be hung by the neck until he is dead.

SECTION 2.—Any person guilty of manslaughter or homicide, shall be punished as a jury of twelve men may direct.

SECTION 3.—Any person shooting or threatening to shoot another, or using or threatening to use any deadly weapons, except in self-defence, shall be fined in a sum not less than fifty nor more than five hundred dollars, and

receive, in addition, as many stripes on his bare back, as a jury of six men may direct, and be banished from the district.

LARCENY.

SECTION 4.—Any person, found guilty of petit larceny, shall be fined in a sum double the amount stolen, and such other punishment as a jury of six men shall direct.

SECTION 5.—Any person, found guilty of grand larceny, shall be fined in a sum double the amount stolen, and receive not less than fifty nor more than one hundred lashes on his bare back, and be banished from the district, and such other punishment as a jury of six men may direct.

FORGING, &c.

SECTION 6.—Any person, found guilty of forging deeds, transfers, bills of sale, or jumping claims legally held under record, defacing names or removing stakes from their proper places, shall pay a fine of five dollars for each offence, and double the amount of damages sustained by the injured party, said damages to be determined by a jury of six men.

SECTION 7.—Any person, who shall cause or commit any nuisance, affecting or liable to affect the health of the people of this district, upon conviction thereof, shall pay a fine not exceeding one hundred dollars, to be determined by a jury of six men, and remove such nuisance within twenty-four hours.

SECTION 8.—Any person, convicted of causing a nuisance, and failing or refusing to remove the same, shall suffer the same penalty for each succeeding twenty-four hours, as is prescribed in section seventh, and such other punishment as the jury may direct.

SECTION 9.—All and every offence, not enumerated in the foregoing sections, shall be determined by a jury of six men, and punished as they may direct.

SECTION 10.—Any theft, not exceeding ten dollars in value, shall be deemed petit larceny; and any theft, over that sum in value, shall be deemed grand larceny.

CUTTING TIMBER.

SECTION 11.—It shall not be lawful for any person or persons to remove any timber or wood from this district, and upon conviction of a violation of this section, the person or persons so offending shall be fined in a sum, not less than double the value of such timber, nor more than one hundred dollars, to be collected as other fines.

CHAPTER VII.—CLAIMS DEFINED.

SECTION 1.—The term claim, as used in this district, shall be construed to mean, when applied to a lode, one hundred feet, extending the length of the same:—When applied to gulch, one hundred feet up and down and fifty feet across:—When applied to patch or placer diggings, one hundred feet square:—When applied to tunnel claims, the entire distance intended to run the same for discovery purposes, as shown by the record and stake at the mouth of the tunnel:—When applied to a mill water privilege, three hundred feet, on the creek, with the privilege of using half the water in the creek:—When

applied to surface pre-emption for mill grounds, for every three hundred feet of water power, two hundred feet on the creek, extending back the same width to the base of the mountain:—When applied to a ditch claim, the entire distance staked out which they intend to run the same, nor show by the survey and stakes.—When applied to creek bed mining claims, one hundred feet up and down the creek in length, and between high water mark on each side.—When applied to bar claims, fifty feet wide, running back to the base of the mountain.

SECTION 2.—All lode claims, when recorded, shall be held as real estate.

SECTION 3.—No person shall hold more than one patch, gulch, placer or bar claim, except by purchase or discovery. They shall be held as real estate, by recording them as such.

SECTION 4.—All purchased claims, when recorded, shall be held as real estate.

SECTION 5.—Any person shall be entitled to hold one claim on each quartz lode as real estate, by recording the same, and no more, except by purchase or discovery.

SECTION 6.—Any person discovering a quartz lode, by recording the same, may hold as real estate the discovery and one other claim, by pre-emption on said lode.

SECTION 7.—All quartz lodes shall terminate in the center of Clear Creek.

SECTION 8.—When lode claims extend through bar claims, the first claim recorded shall hold both.

SECTION 9.—All lodes discovered after October 17, 1860, shall terminate in Hukil, Dandridge, Georgia, Jefferson and Fraud Run Gulches, and in the bed of Clear Creek.

SECTION 10.—All recorded pre-emptions for water claims for mill privileges and purposes, shall be held as real estate.

SECTION 11.—All mill privileges, on either side of Clear Creek, shall be entitled to half the water in the creek.

SECTION 12.—Any person, owning a quartz mill or claim, on which he has a mill, or is preparing to place a mill, shall have the right to cut or construct a race, flume or ditch, to convey water to such mill, over any claim, road or ditch. Provided, the water shall be so guarded as not to interfere with vested rights; priority of claims to be in every case respected.

SECTION 13.—The discovery hole shall be considered in the centre of the discovery claim, unless specified to the contrary on the record.

SECTION 14.—No person shall be allowed to mine under any building, or other improvement, unless they first secure the parties owning such improvement against all damages, except by priority of title.

SECTION 15.—All mining claims must be recorded, unless the same are continuously worked.

SECTION 16.—All deeds, bonds, contracts, bills of sale or instruments of any kind relating to the conveyance of claims, shall be witnessed and must be recorded, to be held as valid against creditors or subsequent deeds of grantor.

SECTION 17.—Pre-emptions on lodes, which run into each other, shall be governed by priority of discovery.

SECTION 18.—In all cases, where parties shall have complied with the law, as far as possible, priority of claim, when honestly carried out, shall be respected.

CHAPTER VIII.—TUNNEL LAW.

SECTION 1.—Any person or company, locating a tunnel claim in this district, as hereinafter provided, shall be entitled to pre-empt one hundred by two hundred feet of ground, as surface claim, at the starting point for tunnel purposes and deposits.

SECTION 2.—Any person or company, running a tunnel under this law, shall be entitled to four hundred feet, and no more, upon any lode, which may be discovered in said tunnel, two hundred feet of which may be taken on each side of the centre line of the tunnel claim. Provided, such lode has not been discovered and claimed, prior to the discovery in the tunnel. Provided, also, that such discovery be pre-empted and recorded as other claims.

SECTION 3.—Any person or company, locating a tunnel as aforesaid, shall be required to commence work upon the same, on or before the first day of June, eighteen hundred and sixty-one, in which month he or they shall be required to perform fifty dollars worth of labor upon said tunnel; after which, he or they shall be required to perform at least three months work, for one laborer, in each six months. Upon failing to comply with any of the requirements in this section, the right to such tunnel claim shall be forfeited.

SECTION 4.—All tunnel claims shall be staked at the starting point in the center, upon which stake shall be written the direction and terminus of said tunnel, together with the name of the owner or owners.

SECTION 5.—Any person, or company running a tunnel under this law, shall have the right to cross any lode, on the line of said tunnel. Provided, the amount of quartz taken out of such lode, shall not be more than is necessary to cross said lode, at right angles, the size of said tunnel at smallest place.

SECTION 6.—Any person or company, owning lode claims, through which a tunnel, under this law may pass, shall have the right, either in person or by their agent, to inspect such lode claim, in said tunnel, at any time they may desire.

SECTION 7.—When a person or company claims to have discovered a new lode in their tunnel, and said lode is claimed by prior discovery, it shall devolve upon the tunnel owner to show that his discovery is a new one.

SECTION 8.—All persons, owning lode claims, shall have the privilege to work the same, by tunneling or otherwise, and to deposit quartz, either by slide or tramway, at the point most convenient for them on any ground claimed under this law for surface deposits. Provided, they do not deposit quartz, or place any obstruction nearer than twenty feet from the center of the mouth of said tunnel.

CHAPTER IX.—TAXES.

SECTION 1.—All male persons, eighteen years of age and upwards, who are residents of this district, on the fifteenth day of June A. D. 1861, shall be taxed the sum of one dollar, said tax shall be due the first day of July 1861, and shall be paid on or before the first day of August 1861.

SECTION 2.—All claims, held by non-residents, shall be taxed twenty-five cents each.

SECTION 3.—Any and all laws, conflicting with the foregoing, are hereby repealed, Provided, that nothing herein contained shall be so construed as to interfere with any rights acquired under previously existing laws.

OFFICE OF THE PRESIDENT OF }

SPANISH BAR DISTRICT, January 28, 1861. }

I hereby certify that the foregoing is a true copy of the revised laws of Spanish Bar District, as passed, at a legally called meeting, on the 22d day of January, A. D. 1861. Given under my hand, the day and date first above written. Attest.

SAMUEL HULL, President.

G. P. BOYCE, Secretary.